

# Overview of Copyright



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# Formality free protection

- Berne Article 5(2)
  - The enjoyment and the exercise of these rights shall not be subject to any formality;
- Registration, Deposit, Notice
  - OK, as long as they are not a condition of protection.



# Subject Matter - Berne

- Berne Article 2(1) The expression “literary and artistic works” shall include *every production in the literary, scientific and artistic domain*, whatever may be the mode or form of its expression, such as:
  - books, pamphlets and other writings;
  - lectures, addresses, sermons and other works of the same nature;
  - dramatic or dramatico-musical works;
  - choreographic works and entertainments in dumb show;
  - musical compositions with or without words;



# Subject Matter - Berne

- cinematographic works to which are assimilated works expressed by a process analogous to cinematography;
- works of drawing, painting, architecture, sculpture, engraving and lithography;
- photographic works to which are assimilated works expressed by a process analogous to photography;
- works of applied art;
- illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.



# Subject Matter - Berne

- Also protected as original works
  - Translations
  - Adaptations (Book to Movie)
  - Arrangements of music
  - Other alterations
- Collections of works (e.g. encyclopedia)
  - The selection and arrangement constitute an intellectual creation.
  - Protection is without prejudice to the copyright in the original work.



# Subject Matter - TRIPS

- TRIPS Art 10 expanded the subject matter that was expressly provided for in Berne:
  - Computer Programs,
  - Compilations of data or other material...which *by reason of the selection or arrangement of their contents* constitute intellectual creations shall be protected as such.





# Subject Matter (U.S.)

- §102 – Works of authorship include the following categories:
  - Literary works;
  - Musical works, including any accompanying words;
  - Dramatic works, including any accompanying music;
  - Pantomimes and choreographic works;
  - Pictorial, graphic, and sculptural works;
  - Motion pictures and other audiovisual works;
  - Sound recordings; and
  - Architectural works.



# Berne – What is not protected?

- Excluded from protection
  - News of the day or miscellaneous facts having the character of mere items of press information.
- What is excludable?
  - Oral works – fixation can be required
  - Official texts (legislative, judicial, administrative)
  - Political speeches
  - Speeches delivered in the course of legal proceedings.





# TRIPS – What is not protected?

- Art 9(2)
  - Copyright protection shall extend to expressions and not to ideas, procedures, methods of operation or mathematical concepts as such.



# U.S. – What is not protected?

- Titles, names, short phrases, and slogans;
- Familiar symbols or designs;
- Mere variations of typographic ornamentation, lettering, or coloring;
- Mere listings of ingredients or contents;
- Works consisting entirely of information that is common property and containing no original authorship (e.g., standard calendars, height and weight charts, tape measurers and rulers, and lists or tables taken from public documents or other common sources).



# Ownership

- Berne Art 2(6).
  - The works mentioned in this Article shall enjoy protection in all countries of the Union.
  - This protection shall operate for the benefit of the author and his successors in title.



# Ownership (U.S.)

- Copyright is a form of protection provided by the laws of the United States to the authors of original works of authorship, fixed in a tangible medium of expression. (Title 17, U.S. Code)
- Copyright in a work protected...vests initially in the author or authors of the work. The authors of a joint work are coowner of copyright in the work. (§201)



# Works for Hire (U.S.)

- In the case of works made for hire, the employer and not the employee is considered to be the author.
- Section 101 of the copyright law defines a "work made for hire" as:
  - a work prepared by an employee within the scope of his or her employment; or



# Works for Hire (U.S.)

- a work specially ordered or commissioned for use as:
  - a contribution to a collective work
  - a part of a motion picture or other audiovisual work
  - a translation
  - a supplementary work
  - a compilation
  - an instructional text
  - a test
  - answer material for a test
  - an atlas





# Works for Hire (U.S.)

- IF the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.



# Rights

	Reproduction	Adaptation	Distribution	Broadcasting / Communication to the Public	Making Available	Rental
Berne	A: 9(1), 14	A: 8, 12, 14	A: 14(1), 14bis	A: 11, 11bis, 11ter, 14, 14bis	NA	NA
TRIPS	P: 14(1) PP: 14(2)	NA	NA	P: 14(1)	NA	A: 11 PP: 14(4)
WCT	A: 1(4)	NA	A: 6(1)	A: 8	A: 8	A: 7(1)
WPPT	P: 6(ii), 7 PP: 11	NA	P: 8 PP: 12	P: 6(i)	P: 10 PP: 14	P: 9 PP: 13
U.S.	106(1)	106(2)	106(3)	106(4-6)	106(3)	106(3)



# Term of protection

- Generally life of the author +50 years (Berne Art 7(1) & TRIPS Art 12)
- Generally life of the author +70 years. (U.S. §302)
- For works made for hire, the term will be 95 years from the year of first publication or 120 years from the year of creation, whichever expires first. (U.S. §302)



# THANK YOU

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